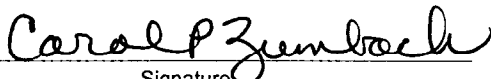


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EXPRESS MAIL MAILING LABEL	
NUMBER	<b>EL 831733158 US</b>
DATE OF DEPOSIT	<b>11/16/04</b>
I hereby certify that this paper or fee is being deposited with the United States Postal Service "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 C.F.R. § 1.10 on December 9, 2003 and is addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.	
	
Signature	

**UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

REGISTRATION NO.: 2,666,400  
MARK: K 326  
REGISTERED: DECEMBER 24, 2002

**CROSS CREEK SEED, INC., and  
COATING SUPPLY, INC.,**


Petitioners,

v.

**F.W. RICKARD SEEDS, INC.,**

Registrant.

CANCELLATION NO. 92041792

  
**76378772**  
01-20-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #74

**VOLUNTARY SURRENDER OF REGISTRATION FOR CANCELLATION  
WITH CONSENT OF PETITIONERS**

Pursuant to 37 CFR §§ 2.134(a) and 2.172, and pursuant to Trademark Board Manual of Procedure (TBMP) § 602.02(a), Registrant F.W. Rickard Seeds, Inc. ("Registrant") hereby voluntarily surrenders its United States Trademark Registration No. 2,666,400 for the mark "K 326" for cancellation with prejudice, the original certificate of which is enclosed for this purpose.

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**WHEREFORE**, the parties respectfully request that the Board: (1) accept such surrender; (2) cancel Reg. No. 2,666,400 with prejudice; and (3) dismiss this cancellation proceeding without prejudice.

The parties further stipulate and agree that neither this Voluntary Surrender for Cancellation with Consent of Petitioners, nor any party's consent hereto, shall in any way constitute or be construed as any evidence or admission by any party with respect to any allegation, claim or issue in this cancellation proceeding or any other action or proceeding, other than the parties' agreement and consent hereto.

Respectfully submitted,

With the Consent of the Registrant:  
F.W. RICKARD SEEDS, INC.

Dated: 1/12/04

By [Signature]  
Name Humberto Alba  
Title President

Dated: Jan. 13, 2004

[Signature]  
Thomas L. Casagrande, Esq.  
HOWREY SIMON ARNOLD & WHITE, LLP  
750 Bering Drive  
Houston, TX 77057  
(713) 787-1400

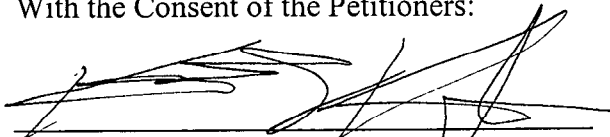
George B. Snyder, Esq.  
KRAMER LEVIN NAFTALIS & FRANKEL LLP  
919 Third Avenue  
New York, NY 10022  
(212) 715-9100

*Attorneys for Registrant F.W. Rickard Seed, Inc.*

-- and --

Dated: 15 December 2003

With the Consent of the Petitioners:

A handwritten signature in black ink, appearing to be 'K. Kaufman', written over a horizontal line.

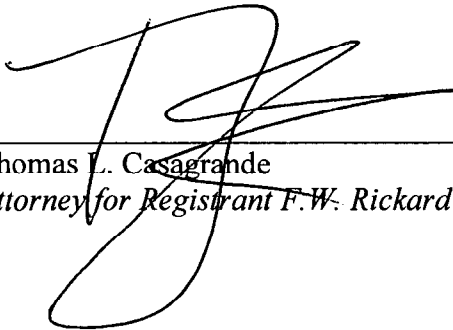
Kenneth S. Kaufman, Esq.  
Garson & Associates, LLC  
7735 Old Georgetown Road, Suite 550  
Bethesda, MD 20814  
(301) 280-2700

*Attorneys for Petitioners Cross Creek Seed, Inc.  
and Coating Supply, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing VOLUNTARY  
SURRENDER OF REGISTRATION FOR CANCELLATION WITH CONSENT OF  
PETITIONERS has been served on January 16, 2004 by first class mail, postage prepaid,  
on:

Kenneth S. Kaufman, Esq.  
Garson & Associates, LLC  
7735 Old Georgetown Road, Suite 550  
Bethesda, MD 20814



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Thomas L. Casagrande  
*Attorney for Registrant F.W. Rickard Seed, Inc.*

# The United States of America



## CERTIFICATE OF REGISTRATION PRINCIPAL REGISTER

*The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.*

*The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.*

*A copy of the Mark and pertinent data from the application are part of this certificate.*

*This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law, and subject to compliance with the provisions of Section 8 of the Trademark Act of 1946, as Amended.*



A handwritten signature in black ink, appearing to read "James H. Moore".

Director of the United States Patent and Trademark Office

## **Requirements for Maintaining a Federal Trademark Registration**

### **SECTION 8: AFFIDAVIT OF CONTINUED USE**

The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. §1058, upon the expiration of the following time periods:

- i) At the end of 6 years following the date of registration.
- ii) At the end of each successive 10-year period following the date of registration.

*Failure to file a proper Section 8 Affidavit at the appropriate time will result in the cancellation of the registration.*

### **SECTION 9: APPLICATION FOR RENEWAL**

The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. §1059, at the end of each successive 10-year period following the date of registration.

*Failure to file a proper Application for Renewal at the appropriate time will result in the expiration of the registration.*

**No further notice or reminder of these requirements will be sent to the Registrant by the Patent and Trademark Office. It is recommended that the Registrant contact the Patent and Trademark Office approximately one year before the expiration of the time periods shown above to determine the requirements and fees for the filings required to maintain the registration.**

Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

**United States Patent and Trademark Office**

**Reg. No. 2,666,400**

**Registered Dec. 24, 2002**

**TRADEMARK  
PRINCIPAL REGISTER**

**K 326**

F. W. RICKARD SEEDS, INC. (KENTUCKY CORPORATION)  
4330 COLBY ROAD  
WINCHESTER, KY 40391

FIRST USE 3-26-1984; IN COMMERCE 3-26-1984.

SER. NO. 76-378,772, FILED 3-6-2002.

FOR: TOBACCO PLANT SEEDS, SEEDLINGS,  
LIVING PLANTS AND PLANTLETS, IN CLASS 31  
(U.S. CLS. 1 AND 46).

CHRISTOPHER ADKINS, EXAMINING ATTORNEY